

MINUTES

MONTANA SENATE 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By **CHAIRMAN JEFF MANGAN**, on March 8, 2005 at 3:10 P.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Jeff Mangan, Chairman (D)
Sen. John Esp (R)
Sen. Kelly Gebhardt (R)
Sen. Kim Gillan (D)
Sen. Bob Hawks (D)
Sen. Rick Laible (R)
Sen. Lynda Moss (D)
Sen. Jerry O'Neil (R)
Sen. Jim Shockley (R)
Sen. Carolyn Squires (D)
Sen. Mike Wheat (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jennifer Kirby, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 508, 3/4/2005; HB 564, 3/4/2005;
HB 218, 2/23/2005
Executive Action: HB 508; HB 218; HB 564; HB 105

HEARING ON HB 508

{Tape: 1; Side: A; Approx. Time Counter: 1.6}

Opening Statement by Sponsor:

REP. GORDON HENDRICK (R), HD 14, opened the hearing on **HB 508**, Clarify application of VEBA.

{Tape: 1; Side: A; Approx. Time Counter: 1.6 - 2.9}

REP. HENDRICK called **HB 508** a "housekeeping bill." It better defined the word "employers" for the benefit of the Voluntary Employees Beneficiary Association (VEBA). **REP. HENDRICK** told the committee that currently, not all state employees can join VEBA because of the definition of employer. It was his belief that by expanding the definition, more people could enjoy the benefits of the program.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 2.9 - 4.2}

Randy Morris, Department of State Administration, stood in support of **HB 508**. He said that the bill would be more explicit that all public employees were eligible for the program.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 4.2 - 7.5}

SEN. JERRY O'NEIL, SD 3, COLUMBIA FALLS asked the sponsor if there was a fiscal note attached to the bill. **REP. HENDRICK** said there was not because there was not fiscal impact. He pointed out that the program was voluntary. He noted that the goal of the bill was to include employees of the judicial branch, legislative branch, and the governor's office.

SEN. O'NEIL wanted to know if the employees pay the full amount of money that goes into the fund. **Mr. Morris** explained that the plan was funded by the cash-out of employee sick leave. He stated that loans were used at first to pay the administrative costs of the program and the program was small so employees did not pay the full amount yet. He expected to have the full way paid soon.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 7.5 - 9.1}

REP. HENDRICK commented that HB 508 was his first bill and thanked the committee. He said that he would be honored if SEN. JIM SHOCKLEY, SD 45, VICTOR would carry the bill if it got out of committee.

EXECUTIVE ACTION ON HB 508

{Tape: 1; Side: A; Approx. Time Counter: 9.1 - 10}

Motion/Vote: SEN. ESP moved that HB 508 BE CONCURRED IN. Motion carried unanimously by voice vote. SEN. MICHAEL WHEAT, SD 32, BOZEMAN voted aye by proxy.

SEN. CAROLYN SQUIRES, SD 48, MISSOULA exits.

HEARING ON HB 218

{Tape: 1; Side: A; Approx. Time Counter: 10.1}

Opening Statement by Sponsor:

REP. BERNIE OLSON (R), HD 10, opened the hearing on HB 218, Revise laws on mosquito control districts.

{Tape: 1; Side: A; Approx. Time Counter: 10.1 - 15.9}

REP. OLSON handed out a letter from the Flathead City-County Health Department.

EXHIBIT(los51a01)

REP. OLSON stated that the bill came at the request of his county commissioners and the Montana Association of Counties. He said the bill would help deal with West Nile Virus. REP. OLSON told the committee that although Montana has a significant mosquito problem, there were only two small mosquito control districts in the state. He declared that the problem with trying to create a mosquito control district was that the statute required a petition signed by 25 percent of the property owners. REP. OLSON noted that it would be quite difficult to get that many signatures and there were many absentee landlords, especially in his county. HB 218 reduced the percentage from 25 percent to 10

percent. It also allowed the creation of a mosquito control district by resolution of the county commissioners. **REP. OLSON** noted that West Nile Virus was becoming an increasing problem in Montana and the state had one of the highest horse per capita populations in the country. **REP. OLSON** said that counties need to address the problem of West Nile Virus more quickly. West Nile had already killed two Montanans in the last year and was costly for livestock owners.

SEN. WHEAT enters

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 15.9 - 17.9}

Gordon Morris, Montana Association of Counties, supported the bill but noted that they had neglected to include an effective date on the bill. He promoted an amendment. **Mr. Morris** handed out an informational sheet of mosquito control districts.

EXHIBIT(los51a02)

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 17.9 - 27.0}

SEN. O'NEIL asked whether there was a problem with line 20. **Mr. Morris** answered that they would have to lay out the boundaries for a district. **SEN. O'NEIL** said that when he tried to do the same thing on a doughnut bill, the Montana Supreme Court declared it unconstitutional. **Mr. Morris** inquired whether **SEN. O'NEIL's** doughnut bill created a district. **SEN. O'NEIL** responded that the Supreme Court ruled that "Property owners" did not satisfy the rule of one person equals one vote. **Mr. Morris** responded that **HB 218** just amended existing law and should be constitutional.

SEN. RICK LAIBLE, SD 44, VICTOR wanted to know if counties had tried to create a mosquito control district under current statute and failed. **REP. OLSON** said that the county started the petition process in the summer of 2000 and could not get enough signatures. He thought it would be better for counties to be able to move quickly if the mosquito threat is severe. **SEN. LAIBLE** commented that the petition process would not even be used, the

resolution by county commissioners would be the easiest. **REP. OLSON** agreed.

SEN. JOHN ESP, SD 31, BIG TIMBER questioned whether once a district was created, it would remain in effect forever or just one season. **REP. OLSON** said that mosquito control districts go on the tax rolls and taxes are assessed for them. Citizens can petition to end the districts but its never been done. Unless there is a petition to end, the mosquito control district remains in effect.

SEN. MANGAN asked why the sponsor amended out the clause on annexation. **REP. OLSON** replied that the representatives were concerned that existing districts could expand.

SEN. MANGAN questioned whether a resolution of intent by the county commissioners could be used to annex. **REP. OLSON** deferred to **Mr. Morris**. **Mr. Morris** answered that a resolution of intent could not be used to annex. He noted that annexation could only be accomplished through the petition process. **SEN. MANGAN** wanted to know if a district could be created on top of another district to annex in new territory. **Mr. Morris** responded that a new district could not be formed on top of an existing district.

SEN. WHEAT commented that school districts are put on top of one another.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 27 - 28.6}

REP. OLSON explained that annexation still required twenty-five percent petition process. He noted that he had not found a senator to carry the bill. **SEN. SHOCKLEY** volunteered to carry the bill if it got voted out of committee.

HEARING ON HB 564

{Tape: 1; Side: A; Approx. Time Counter: 28.6}

Opening Statement by Sponsor:

REP. JOHN WITT (R), HD 28, opened the hearing on **HB 564**, Provide for sale of MT Ag center & museum of Northern Plains.

{Tape: 1; Side: A; Approx. Time Counter: 28.7 - 31.9}

REP. WITT explained that **HB 564** would transfer the ownership of the Montana Agricultural Center and the Museum of Northern Plains from the state of Montana to the city of Fort Benton. He invited the committee to visit the center that summer. He commented that Montana Fish, Wildlife, and Parks was in favor of the bill. He noted that there was a reversion clause built into the bill.

Proponents' Testimony:

{Tape: 1; Side: A; Approx. Time Counter: 1.2 - 3.7}

Doug Monger, Administer of Parks for Montana Department of Fish, Wildlife & Parks, read his testimony into the record.

EXHIBIT(los51a03)

SEN. WHEAT exits.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

{Tape: 1; Side: A; Approx. Time Counter: 3.7 - 6.1}

SEN. KIM GILLAN, SD 24, BILLINGS asked **Mr. Monger** what the current policy was for state property disposal and whether the state had to sell a property at fair market value. **Mr. Monger** said there were constitutional exemptions for a situation where the land is going to a local government. He noted that the property must be less than ten acres and worth less than \$100,000 to meet the exemption.

SEN. KELLY GEBHARDT, SD 23, ROUNDUP gave the examples of other instances when the state utilized the exemption.

Closing by Sponsor:

{Tape: 1; Side: A; Approx. Time Counter: 6.1 - 7.7}

REP. WITT told the committee that the community had invested several million dollars into the facility and the bill would help the city and community. **REP. WITT** noted that **SEN. JERRY BLACK, SD 14, SHELBY** had asked to carry the bill.

SEN. LAIBLE exits.

EXECUTIVE ACTION ON HB 564

{Tape: 1; Side: A; Approx. Time Counter: 7.7 - 8.3}

Motion/Vote: SEN. ESP moved that HB 564 BE CONCURRED IN. Motion carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy. SEN. WHEAT voted aye by proxy. SEN. LAIBLE voted aye by proxy.

EXECUTIVE ACTION ON HB 218

{Tape: 1; Side: A; Approx. Time Counter: 8.3 - 12.2}

Motion: SEN. ESP moved that HB 218 BE CONCURRED IN.

Motion: SEN. ESP moved that HB 218 BE AMENDED.

Discussion: SEN. ESP wanted to amend Section 4 back into the bill. He said that annexation and creation should have the same percentage for the petition process. SEN. HAWKS asked if the section was not purposefully amended out to protect some property owners. SEN. ESP answered that the district could be created with ten percent and so the property would not be protected with or without Section 4.

Motion: SEN. GILLAN CALLED THE QUESTION ON MOTION TO AMEND HB 218.

Vote: Motion carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy. SEN. WHEAT voted aye by proxy. SEN. LAIBLE voted aye by proxy.

Motion: SEN. ESP moved that HB 218 BE AMENDED.

Discussion: SEN. ESP wanted to amend the bill to include an effective date of "on passage and approval."

Vote: Motion carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy. SEN. WHEAT voted aye by proxy. SEN. LAIBLE voted aye by proxy.

Motion/Vote: SEN. ESP moved that HB 218 BE CONCURRED IN AS AMENDED. Motion carried unanimously by voice vote. SEN. SQUIRES voted aye by proxy. SEN. WHEAT voted aye by proxy. SEN. LAIBLE voted aye by proxy.

EXECUTIVE ACTION ON HB 105

{Tape: 1; Side: A; Approx. Time Counter: 12.2 - 13.9}

Motion/Vote: SEN. O'NEIL moved that HB 105 BE TABLED. Motion carried 6-5 by roll call vote with SEN. GILLAN, SEN. MANGAN, SEN. MOSS, SEN. SHOCKLEY, and SEN. WHEAT voting no. SEN. SQUIRES voted aye by proxy. SEN. WHEAT voted no by proxy. SEN. LAIBLE voted aye by proxy.

SEN. MANGAN told the committee that at the end of the month, the committee would be participating in the Legislative Services Pilot Project. The committee would meet in room 472 at 6:30pm on Tuesday, Wednesday, and Thursday, March 29, 30, 31. He noted that they would hear two bills each night and the meetings may be a little longer because they would have to hear from four or five different sites around the state. SEN. MOSS wanted to know how the chairman selected which bills would be heard. SEN. MANGAN stated that he tried to pick bills that would benefit the most from statewide input. SEN. MANGAN asked the committee members to try and get their communities involved in the project.

ADJOURNMENT

Adjournment: 3:56 P.M.

SEN. JEFF MANGAN, Chairman

JENNIFER KIRBY, Secretary

JM/jk

Additional Exhibits:

EXHIBIT ([los51aad0.PDF](#))